

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DARYL STOLLINGS,

Defendant.

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: Case No. 3:10cr119

: Case No. 3:13cv137

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: JUDGE WALTER H. RICE

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DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS  
OF THE UNITED STATES MAGISTRATE JUDGE (DOC. #102);  
SUSTAINING DEFENDANT'S MOTION TO VACATE, FILED PURSUANT  
TO 28 U.S.C. § 2255, AND RESENTENCING DEFENDANT UNDER THE  
FAIR SENTENCING ACT OF 2010 AND THE SUPREME COURT  
AUTHORITY OF *DORSEY V. UNITED STATES*, 132 S. CT. 2321 (2012);  
BUREAU OF PRISONS REQUESTED TO NOTIFY COURT THAT THE  
WITHIN ENTRY HAS BEEN RECEIVED AND ACTED UPON

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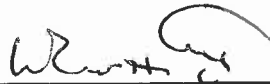
On February 10, 2011, the Defendant was sentenced to a term of 60 months in the custody of the Attorney General of the United States, the Bureau of Prisons. Subsequent thereto, he filed a Motion to Vacate Sentence pursuant to 28 U.S.C. § 2255 to which the Government has filed no objections. The Magistrate Judge recommended that this Court grant said Motion, by resentencing Defendant under the Fair Sentencing Act.

Now removed from the inhibitions of the mandatory minimum sentence of 60 months, this Court calculates the no longer binding, now advisory guideline range as follows, to wit: a base offense level of 16 (for possessing for purpose of distribution at least 2.8 but less than

5.6 grams of crack cocaine), plus a two level enhancement for maintenance of a drug premises for a gross offense level of 18, which is reduced by 3 for acceptance of responsibility, timely notification of intent to plead guilty and full disclosure of the facts of the offense. The net offense level of 15 is matched against a criminal history of 3, resulting in an advisory sentencing guideline range of 24-30 months. Considering the advisory sentencing range, in conjunction with all additional factors which must be considered, those factors being set forth in 18 U.S.C. § 3553(a), this Court concludes that the now vacated 60-month sentence should be replaced by the following, which, in this Court's opinion, represents a sentence sufficient, but no more than needed to carry out the purposes of sentencing, to wit: time served, with all other aspects of the sentence imposed on the aforesaid February 10, 2011, being unchanged. Given that the Defendant has, to this point, served 21 months, from January 3, 2012, this Court believes that the Defendant is eligible for immediate release.

It is the request of this Court that the authorities at the Defendant's designated institutional residence advise the undersigned that this Decision and Entry has not only been received but acted upon, and the Defendant released from custody. Said Defendant is to report to the United States Probation Department, in the city wherein he will be supervised, not later than 72 hours after release.

October 4, 2013



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WALTER H. RICE  
UNITED STATES DISTRICT JUDGE

Copies to:

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